

Notice of Allowability

Application No.

09/445,065

Examiner

Fenn C. Mathew

Applicant(s)

BODENSCHATZ ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08/17/05.
2. ☒ The allowed claim(s) is/are 1-8 and 10-20.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

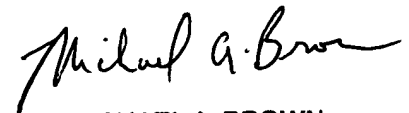
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/28/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



**MICHAEL A. BROWN
PRIMARY EXAMINER**

EXAMINER'S AMENDMENT

1. The interlineations or cancellations made in the specification could lead to confusion and mistake during the issue and printing processes. Accordingly, the portion of the specification or claims as identified below is required to be rewritten before passing the case to issue. See 37 CFR 1.125 and MPEP § 608.01(q).

A substitute specification must not contain new matter. A clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gregory Carlin on October 28, 2005.

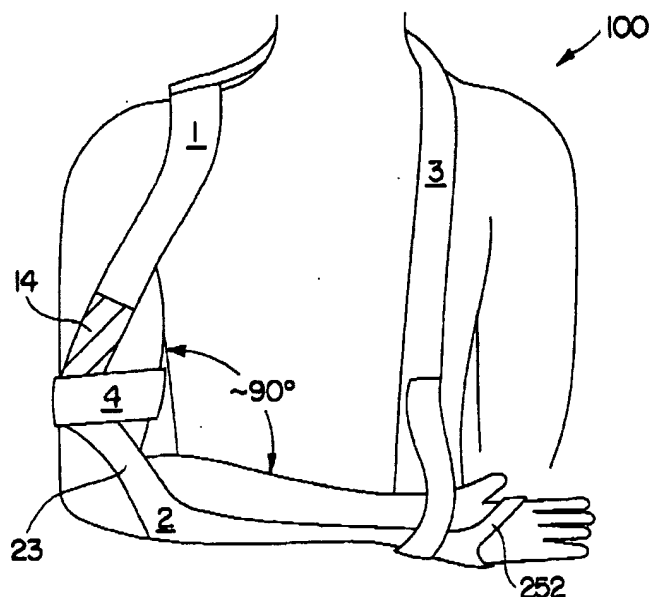
The application has been amended as follows:

- In claim 1, line 8, after the phrase "the elbow joint", please insert the phrase --configured to extend along the forearm of the patient--.
- In claim 1, line 11, after the phrase "on the forearm part," please insert the phrase --wherein at least a portion of the holding strap is configured to extend generally parallel to the forearm of the patient and the forearm part,--.

The following amendments were made to further distinguish the Abolina reference.

Allowable Subject Matter

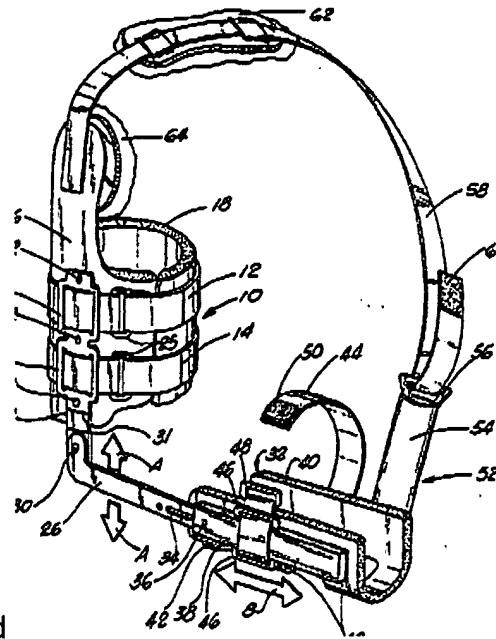
3. Claims 1-8 and 10-20 are allowed. The following is an examiner's statement of reasons for allowance: Herzberg et al. (U.S. 6,099,489) as pictured



teaches a bandage for the shoulder and

upper arm area including a forearm portion, a holding strap, and a connecting strap.

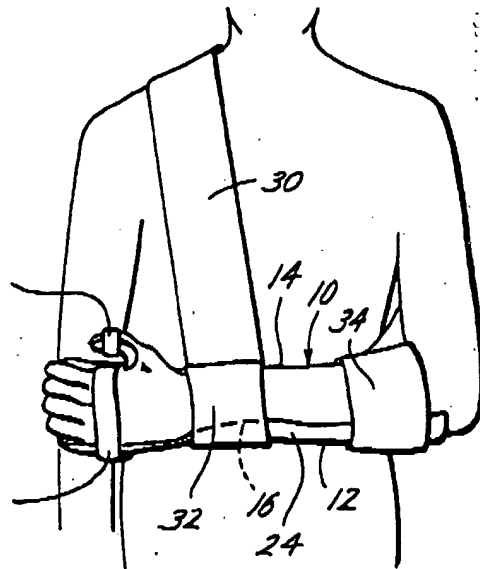
Herzberg fails to teach or make obvious the holding strap configured to pass laterally behind and across the back of a patient and form a loop around the upper arm part below the shoulder. Herzberg further fails to teach an upper arm shell.



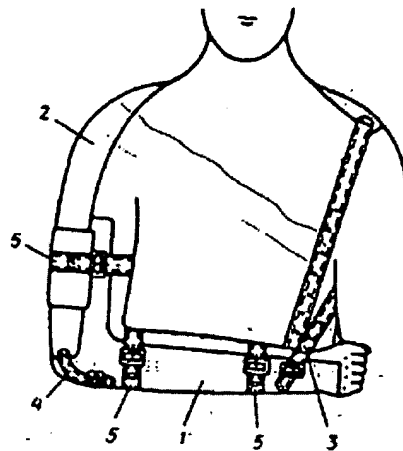
4. Munoz et al. (U.S. 5,383,844) as pictured

teaches a forearm part, a holding strap, an upper arm part, and a connection strap.

Munoz fails to teach the holding strap forming a loop around the upper arm part, and also fails to teach at least a portion of the holding strap is configured to extend generally parallel to the forearm of the patient and the forearm part.



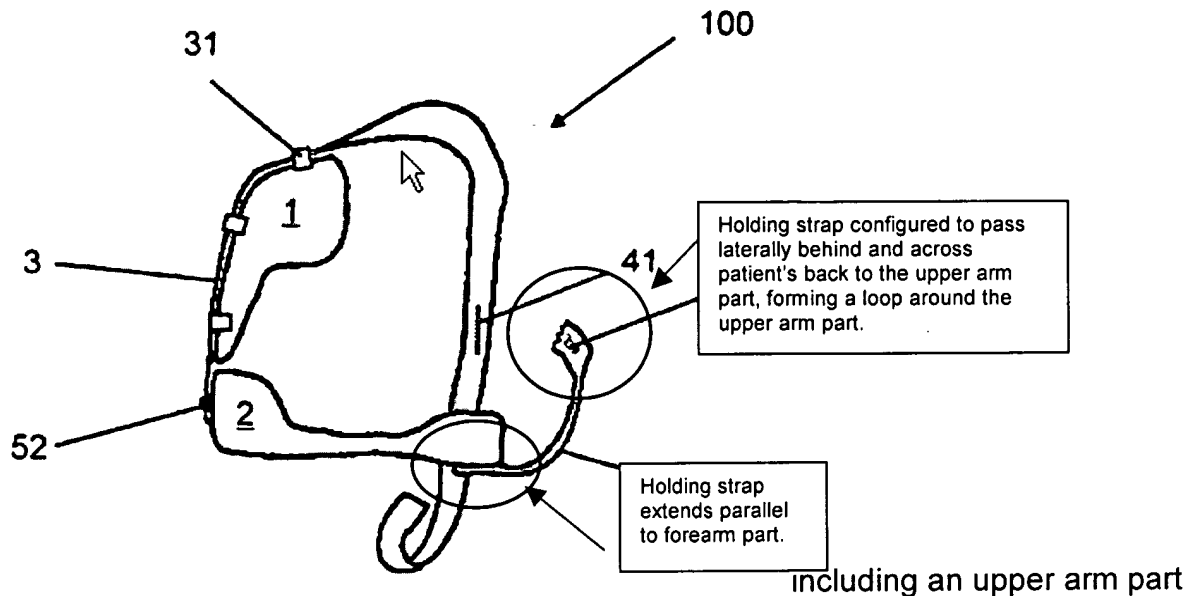
5. Ford (U.S. 4,214,579) as pictured teaches a standard sling, including a forearm shell, and a strap configured to pass over the shoulder of a patient and attach to a second loop adjacent the elbow of the user.



6. Abolina (SU 321,252) as pictured teaches an upper arm part, a forearm part, a holding strap connecting the forearm part to the upper arm part, and a connecting strap. Abolina fails to teach at least a portion of the holding strap is configured to extend generally parallel to the forearm of the patient and the forearm part.

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7. The prior art of record fails to teach the device as pictured



shaped as a half shell connected to a forearm part shaped as a half shell, by a connecting strap, and a holding strap, and wherein at least a portion of the holding strap is configured to extend generally parallel to the forearm of the patient and the forearm part.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm

fcm

October 28, 2005

A handwritten signature in black ink, reading "Michael A. Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

MICHAEL A. BROWN
PRIMARY EXAMINER